IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 12TH JULY 2007 / 21ST ASHADHA 1929

MFA.No. 608 of 2001()

OPMV.2378/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
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APPELLANTS: CLAIMANTS
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1. **K.K.ALI, AGED 49 HEARS,**
   S/O. KUNJU MOHAMMED,
   RESIDING AT KOOTHATTUPARAMBIL,
   MALIKAPEEDIKA, ALANGAD P.O.,
   ERNAKULAM DIST.

2. **AISHA, W/O. ALI, AGED 46 YEARS,**
   KOOTHATTUPARAMBIL, MALIKAPEEDIKA,
   ALANGAD P.O., ERNAKULAM DIST.

BY ADV. SRI.T.H.ABDUL AZEEZ

RESPONDENTS: RESPONDENTS
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1. **THE MANAGING DIRECTOR,**
   KERALA STATE ROAD TRANSPORT CORPORATION,
   THIRUVANANTHAPURAM.

2. **HARI HARAMITHRA PILLAI,**
   S/O.KRISHNA PILLAI, CHERUPUNCHEYIL HOUSE,
   KARUMALLOOR VILLAGE.

BY ADV. SRI.JOHNSON P.JOHN, SC, KSRTC

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 12/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.608 OF 2001

Dated 12th July, 2007

JUDGMENT

Koshy,J.

The only son of the appellants at the age of 22 died in a motor accident. While he was driving a tempo van, a stage carriage bus owned by the first respondent and driven by the second respondent collided with the same and he died in that accident on 8.6.1995. The appellants claimed a compensation of Rs.3,00,000/=. The Tribunal found that the accident occurred due to the negligence of the driver of the vehicle owned by the first respondent Kerala State Road Transport Corporation. However, total compensation awarded was only Rs.1,59,347/=. This appeal is filed claiming enhancement of compensation. Therefore, we are considering only the question of quantum of compensation in this appeal.

2. The deceased was aged 22 at the time of the accident. The Tribunal has taken only 13 as the multiplier. As per Ext.A8, mother was aged 45. Therefore, multiplier of 13 fixed by the Tribunal needs no change. Secondly, it was contended that monthly income taken was very low. He was a

professional driver. He was driving a tempo van. The accident occurred in 1995. Even though, according to the claimants, the deceased was getting Rs.4,500/= per month, in the absence of data, the Tribunal did not accept the same. In any event, since he was a professional driver, we are of the opinion that at least Rs.2,100/= ought to have been taken as the monthly income. The contention that there is likelihood of getting more wages in future and prospects in employment and, therefore, monthly income should be taken at a higher level cannot be accepted as there is likelihood of marriage and percentage of dependency benefit to be given to the father and mother also will be reduced. But, it is contended that he was the only son to look after the claimants at their old age and that was a loss which cannot be measured in terms of money. In any event, after deducting one third from the total income, we fix Rs.1,400/= as the monthly loss of dependency. If that be so, compensation payable will be Rs.2,18,400/= (Rs.1,400 x 12 x 13). The Tribunal has granted Rs.1,14,000/= as the compensation for loss of dependency. Therefore, claimants will be entitled to an additional amount of Rs.1,04,400/= in addition to the compensation awarded by the Tribunal. The above amount of

Rs.1,04,000/= should be deposited by the first respondent with 7% interest from the date of application till its deposit. On deposit of the amount, appellants are entitled to withdraw the same in equal proportion.

The appeal is partly allowed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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